Quid Novi

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Law at McGill: The student view

LSA COMMITTEE DISCUSSION PAPER ON THE FACULTY REVIEW REPORT

I. INTRODUCTION

The Academic Policy and Planning Committee of the McGill University Senate established an ad hoc committee to review the Faculty of Law in February 1982. This was the first step in a review of all faculties and departments at McGill. The Faculty Review Report, termed "Confidential" and dated "Spring, 1982", was made available to law professors during the autumn of 1982, and was released to student representatives in February 1983. It was published in its entirety in the Quid Novi of 7 September 1983.

In May 1983, the Executive of the Law Students' Association decided to create the Ad hoc LSA Committee on the Faculty Review Report. The membership of this committee was approved by the L.S.A. Legislative Council. Both the Executive and Council believed that many of the issues raised and those not raised in the Faculty Review Report required comment. Moreover, although effort was made by the Faculty Review Committee to consult students, no student representatives sat on the Committee. This contrasts with the review committees in other faculties within the university, all of which include student representatives.

The LSA committee met on numerous occasions from June through October, 1983. Every effort was made to consult students and professors on the Faculty standing committees. The committee also referred to documents such as the Arthurs Report.*

The aim of this discussion paper is to contribute to and advance the internal process of review in the Faculty. The analysis and recommendations set out herein are not proposed as the final word, but rather as a point of departure.

*Law and Learning, Report to the Social Sciences and Humanities Research Council of Canada by the Consultative Group on Research and Education in Law, Harry Arthurs, Chairperson, April, 1983, Ottawa.

II. UPSTAIRS-DOWNSTAIRS, OR GOVERNANCE AND ATTITUDES TOWARDS STUDENTS

The Faculty Review Report was published prior to last spring's increase in student representation on Faculty Council. The overwhelming approval of the increase presents an important opportunity for all segments of the Faculty to take advantage of the goodwill presented by professors and students alike.

As was pointed out in the Review, the issue of student representation on Faculty Council was symbolic of a "larger concern" among students. We would be remiss, therefore, if this concern were not addressed.

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Quote of the Week

"No, I can't repeat that ...I don't remember what I just said".

Prof. Boodman

"They're known as the LSD group. Laskin, Spence and Dickson in dissent"

Prof. Scott

"My answer is right even though I've changed my opinion 180°."

Prof. Boodman

Daigneault

by Sidney Fisher

On Wednesday, November 16, Nicole Daigneault spoke to a group of 25 people on the subject of prison conditions, both in general and at Tanguay, a Montreal prison for women.

Prisoners at Tanguay include women sentenced to less than two years and those sentenced to two or more years who have elected to remain in Quebec rather

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Law at McGill

Probably the most striking word used in the Review to describe student perceptions of student-faculty relations was "paternalism". As students we recognize that when we enter the Faculty in first year we are in a sense "novices". However, it must be stressed that the vast majority of students enter the Faculty with at least one university degree or substantial work experience, or both of these. If it is true that we are technically "merely" pursuing one or two additional undergraduate degrees, this does not mean that we view ourselves, either in terms of previous education or work experience, as anything other than graduates. In this regard, it is noteworthy that many American law schools term the level of studies we are undertaking not a "Bachelor's" degree but a "Doctor of Jurisprudence."

The Faculty Review Report made it clear that students do not consider themselves as "children to be controlled". Although we recognise that any institution requires rules for it to operate, neither a preponderance of regulations nor a perceived rigid application of them contrtibutes to a positive community relationship between faculty and students, that is, between adults and adults.

Turning to the matter of day-to-day student-faculty interaction, in which way may this be described? In the view of most students, the contact is less than frequent. Many existing extracurricular activities do not have such contact as a primary goal. For example, LSA beer bashes are not the most conducive atmosphere for conversation. And activities where informal discussions could take place are often not attended by many professors.

Concerning the more formal contact of meeting with professors in their offices, we believe, as do many professors, that every student should be able to see his or her professor for a reasonable length of time when it is necessary to do so. Some professors need to be reminded that a few minutes private discussion will often make a substantial difference to a student in piecing together a course, and can help lessen tension when exam time approaches.

As was noted in the White Paper issues by the then L.U.S. several years ago, "the architecture of the school contributes to and intensifies the apparent divisions between faculty and students" (p. 9). Old Chancellor Day Hall, and the "New" Hall which is spawned, institutionalize an upstairs-downstairs mentality. In the old building, the fact that the LSA office and the Dean's office are on different floors appears more than symbolic. Professors take their "break" in the faculty lounge. The common room, due to overcrowding in the library, has become a makeshift study hall where silence, rather than conversation, is the rule. In the new building the separation is compounded. Professors and students enter the library by different elevators, while the separate faculty collection furthers the lack of contact. Then there is the "pit", where scarcely a professor is seen to roam. Such a setting can lead to an impression of faculty aloofness, even when such is not intended.

Despite these remarks, we remain optimistic. We believe that "paternalism" and perceptions of "paternalism" are and can continue to be less and less significant. Our starting point is that we consider ourselves to be the future professional colleagues of professors, and, more importantly in the context of a university, present colleagues in the study of law - an enterprise from which all may learn.

If the mutual expression of trust which constituted the recent vote on student representation can become the dominant characteristic of our Faculty, the next Faculty Review Report will not require a chapter on "attitudes toward students".

**The members of this committee wish to express their appreciation to the Dean, professors and students on Faculty Council committees who lent their time and support to this effort. The ideas proposed are, of course, those of the authors.

Recommendations

1. Every opportunity should be taken to build upon the

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Announcements

Women and the Law made $107 in their recent bake sale. Proceeds will go to the library for the acquisition of new books. Thanks to everyone who participated and contributed.

Notice of Meeting

McGill Law Group on Nuclear Disarmament meeting 1 p.m. Thursday November 24 in the Commong Room.

- planning program for next term
- all interested people are welcome.

Nuclear and Character Assassinations

by F. Rick Goldman

Wayne Burrows and I have never actually met (though of course, given his prominence in the faculty, I know who he is). It might surprise him then to realize how much we have in common. Firstly, we have both borne the brunt of character assassinations in the Quid this semester. Just last week, for example, in his seminal (albeit somewhat sophomoric) article on "Law School Women", Andrew Cohen stated that first prize in the "Most Desirable Law School Woman Contest" would be to meet Mr. Burrows, whereas second prize would be a date with the big guy.

I, on the other hand, was labelled by none other than Demetri Xistris, just prior to his resignation (yes, Demetri, there is a connection between these events) as a member of the "fringe element" in the faculty. Worse still, in a bizarre, utterly unprovoked, and seemingly unprecedented exercise earlier this semester, I was the subject of an entire page of vicious, egregious character assassination, which portrayed me as an alfalfasprout-munching cruncho-flako, with "tofu-skin" sneakers.

The authors of this article (don't see Quid, October 6, 1983) were naturally too cowardly to identify themselves, but reliable sources have recently conveyed that Gary Lawrence was the ringleader of this calumny. Mr. Gogek, you may expect Gary's "resignation" from the Law Journal in short order.

Another thing Wayne Burrows and I have in common is a concern about the eventuality, and possible outcome of a nuclear war.

I was most heartened to see his Quid article last week on this topic, as well as to observe the general increase in dialogue on the question in the faculty. In this vein, I would like to make some remarks in response to Mr. Burrows' article.

First, with all due respect for Mr. Cohen's valiant effort (supra) I think that the Quid Quote of the Week goes to Mr. Burrows: "I actually believe the SAC pilot who is prepared to fly a 30-year-old plane 75 feet off the ground on what will doubtless be a one-way mission, while knowing full well his wife and baby are dead, and his country will soon be too, but will do it anyway because his job is to protect his country, is in many ways a hero".

With all due respect, Mr. Burrows, I think this is taking the deterrence argument one step too far. The idea of deterrence (or mutually assured destruction --"MAD") is to tell the other side "Don't try to destroy me, 'cause I can destroy you". And with each side having the capacity to blow up the other several times over, you know they could make good.

But once the war has started (N.B. it ends just a half-hour after it starts) and your country has already been blighted, I see little heroic about flying on a kamikaze mission across the world to kill another, say, 500,000 people, if you can find that many. Nor can I see how this has much to do with "protecting your country".

In addition, to note, as you do, that "In these days of cynicism and 'me' generation" it is refreshing to see someone who is not just out for No. 1, and is willing to do something for others, is, with great respect, a rather perverse view of what constitutes a positive contribution to society.

You further state that you support the Cruise and Pershing deployment in Europe because, "considering the political realities" of the day, we are better off under the U.S. nuclear umbrella, and because, until we achieve true arms reduction or disarmament, "the West has little choice but to play the game."

You raise two very legitimate questions here, which require great consideration in response. I believe the answer is two-fold:

If you meant to talk "political realities", let's look at the probable outcome of the Cruise/Pershing deployment. The West deploys 572 new missiles, including Pershings which can strike the Soviet Union in less than eight minutes from West Germany. The Soviets respond with new Euromissiles of their own, as they have promised to do, and we each have 600 new missiles pointed at our heads. However, the threat not only increases quantitatively, but qualitatively, since reaction times are now so low (eight minutes) that the Soviets may well entrust some of their missiles to "launch on warning", that is, launch when the computers think they're under attack, not when humans decide.

History shows that, since the time of the A-Bomb, through the H-bomb, the intercontinental bombers, the submarine bombers, the multiple-warhead missiles (MIRVs) and now with the

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To All BCL/LLB IV Class Members,

1. Re Class Picture

Sorry to have to report this but because of technical difficulties way beyond my or the photographer's control, none of the photos you so graciously posed for came out. So, because it's so late in the semester, it's being put off until a sunny afternoon next January. You'll get plenty of warning so we'll have a big turn-out.

2. Class Gift

The Alma Mater Fund has approached me with the suggestion that the graduating class members, be they fourth or third year students, make a graduating class gift to the University. The A.M.F. sends letters to all class members soliciting contributions. The contributions received by the office are set aside for the Law Faculty Class Gift Account. A committee comprised of five members from the graduating class will be formed to decide what to do with the money collected. There are many possibilities; the gift can be something that benefits the University as a whole or something specifically designated for the Law Faculty. Applications are now being accepted for the Committee positions. If you'd like to apply, receive further information, or make suggestions, just drop a note in my box in the LSA office.

3. Meeting with the Dean

I have an appointment with the Dean on Tuesday, Nov. 29 at 4:00 to discuss "fourth year class concerns." If there is any particular (or general) issue you would like me to raise at this meeting, leave a note in my box in the LSA office.

My apologies for the video vexations. Good luck on exams and Happy Holidays.

Carole Sheppard
BCL/LLB IV Class President

Editorial

Women & Sports

We are jealous. How come the men's sports teams get so many participants that they need tryouts, and the women's teams cannot get enough players for a blessed game sometimes? How is it that our jocks of the male persuasion always seem to know about upcoming games, but many women almost need a written invitation to come out and play?

Snips and snails and puppy dog tails may be more conducive to athletic support systems (no pun intended) than sugar n'spice and everything nice. Or maybe women's upbringing does little to promote the importance of team sports. We know all the clichés. Team sports build character and team spirit and stiff upper lips and all that. But we often forget how important sports can be for making friends, and for getting to know people we might never have even talked to otherwise.

We also know all about the old excuse, "I don't have time for sports." That standby simply does not wash anymore for women. Do the men in our classes get fewer assignments than we do? Or maybe they just assimilate the workload better than we frail women can. Obviously, the problem is motivation, not time.

Alright. Maybe the prospect of more friends does not get you where you live. How about jobs? Many law firms look for participation in team sports as a yardstick for team spirit extending into the office. "Sure you have good marks, but what's your batting average?"

Recently, women have enviously noticed that many men make their contacts through "old boys networks". Entire books have been written on how to set them up and use them. Not surprisingly, many men originally made those contacts in the rink, field, or gym. There is a special kind of friendship that develops on sports teams that many women miss out on in a big way.

Another common excuse is "well, I'd love to play, but I'm pretty spastic...". That's no excuse either. One of the authors of this editorial (i.e. not Kathy Mosco) not only failed ballet class at age eight but was also demoted; but now puts up a showing on the volleyball team that is at least short of being embarassing.

Not participating in sports makes us the losers. Asking for increased funding for sports teams is futile if we do not prove that women's sports are a good investment. The ball is in our court; next semester could redeem our reputation if we can drum up some support. How about it?

Cathy Mosco
Pearl Eliadis

Ultra Vires wins soccer Championship

by Viral Agent

Observers in the scientific community confirmed the existence this past Sunday of a vires powerful enough to withstand all known forms of intervention, including (Ghetto) Blasters and Tender Loving Care. Scientists have distinguished this vires from common or even super viruses, dubbing it Ultra Vires.

Two final tests on the Vires were completeed Sunday night, one at 7 p.m. and one at 8:30. To test the hardiness of the Vires, head scientists Dave Morgan and Andy Mitchell exposed the Vires to the -5° conditions of Molson Stadium.

The scientists began by placing the test substance, a compound somewhat soccer-ball in shape, on the middle of the test surface.

In the first experiment, the Ultra Vires was tested against a fairly deadly agent itself, the Ghetto Blasters. It appeared at first that the Vires would not be able to invade the Blasters' membrane: the soccer-ball-like substance was reacting wildly, even though the first wave of Vires attacked repeatedly.

It was only in Phase II of the first experiment that first-wave Vires Fran ("I can't take the pressure") Ducros succeeded in piercing the Blasters' membrane. After this initial breakthrough the Blasters' immune system never recovered and scientists concluded experiment I, declaring Ultra Vires the more powerful agent.

Experiment II proved that Tender Loving Care is no cure at all for the Vires. The Vires had adjusted completely to the sub-zero conditions and subsequently destroyed the TLC defence system early on.

The strongest attack came from ace Virel agent Sarah (head-that-ball) Dougherty who punctured the TLC membrane three times before the end of Phase I. The TLC immune system was severely weakened at this point but the scientists continued the experiment. Further testing only confirmed their suspicion that the Vires was unstoppable: more damage was caused by subtle but dangerous Virel agent Elise Paul-Hus and high-power agents Annah Lake and Jill Hugessen.

Scientists believe that the mechanism by which the Ultra Vires functions so successfully is a three-fold one, composed of an initial front wave or attack, a booster second wave, and a final tough "back wave". Scientists presently have no answers as to how they will go about blocking the effect of the Vires in the future.

Louise Haberl

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Character...

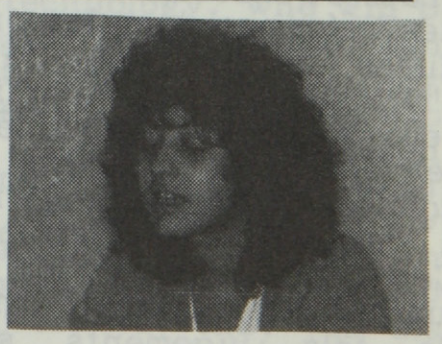
Neutron bomb and the Cruise, it has been the West, with its superior technology, that thought it would exploit this edge and introduce new weapons. For awhile, we do exploit the edge, and then the Soviets catch up, and both sides are less secure than at the outset.

When David Howse of External Affairs appeared in the faculty last month, I asked him why the Cruise, as he had submitted, would bring the Soviets around to a more conciliatory bargaining position, when every weapons deployment in the past has ultimately reduced our security. I don't think he had a satisfactory answer. And unless one can answer that question, I don't see how one can favour the new missiles.

Secondly, with respect to Canada's need to "play the game" along with the West, I think the best response came from Tory MP Doug Roche, and from William Epstein of the U.N. both of whom have spoken here. They submit that Canada should be a "loyal opposition" in NATO, tempering the nuclear programme of our aggressive neighbour to the south, by such actions as refusing the Cruise testing, providing creative input on arms control talks, and pressuring the American government to negotiate in good faith for agreements.

I reiterate, Mr. Burrows, that I think you have done a service to the faculty by raising these questions, and I hope that others will continue in this vein. Those who are interested, may attend the next meeting of the McGill Law Group on Nuclear Disarmament, in the Common Room this Thursday at 1:00.

(Ed. note: Since this is the last Quid of the year, Mr. Burrows may want to respond to Mr. Goldman's comments in person. If so, just look for the tall, slim guy with brown curly hair, wire-rimmed glasses, and a decided "Semitic look", to borrow one of Andrew Cohen's terms).



Quid elects new editor for next term

Michael Jackson: Les droits des prisonniers

par Véronique Marleau

Passer deux ans dans une pièce en béton où il n'y a qu'une toilette et de l'eau, vingt-trois heures par jour, qu'en dites-vous? Et bien c'est ça le trou. Si on n'en sort pas, on devient fou ou bien on se tue, c'est tout. Si ce n'est pas de la cruauté, je me demande ce que c'est. Les détenus ont aussi des droits. Au moins celui de ne pas recevoir ce traitement là. Voilà pourquoi Michael Jackson lutte, pour que la situation change et que l'on comprenne enfin, qu'eux aussi sont des êtres humains.

Professeur, avocat et activiste, Michael Jackson était le conférencier invité par le "Criminal Law Group" mardi dernier au Moot Court. Il venait nous présenter son livre Prisoners of Isolation et nous expliquer le modèle de réforme du milieu carcéral qu'il propose, grâce à l'exemple de la détention solitaire. S'adressant à un auditoire dépassant la centaine, Jackson fut chaudement applaudi.

Après avoir tracé le profil historique des pénitenciers, il souigna que malgré l'évolution observée, la cruauté et les effets de l'isolement demeuraient au fil des ans inchangés. Il expliqua ensuite que des arrêts comme McCann (où la Cour Suprême du Canada reconnu pour la première fois que le traitement que l'on faisait subir à un prisonnier en isolement était cruel et inacceptable et que des réformes dans les procédures de révision de cas s'imposaient) et Martineau (où la nécessité d'une intervention judiciaire fut admise) pouvaient contribuer à modifier la situation. Cependant, il ajouta que jusqu'à aujourd'hui l'impact de tels jugements s'était avéré insuffisant et que n'était "que par l'engagement des avocats et l'application de la règle de droit au jour le jour par les gardiens que l'on modifiera la situation actuelle". Il termina en concluant que "les étudiants en droit des universités ont un rôle historique à jouer pour ce faire."

En effet, expliqua-t-il, les étudiants sont à peu près les seuls qui aient toujours oeuvré pour la défense des droits des prisonniers et qui aient travaillé afin d'assurer que ces derniers reçoivent l'information requise.

Or, il appert que le rôle des étudiants québécois à cet égard n'ait pas été aussi brillant qu'ailleurs. Il est donc temps pour nous, comme le soulignait Jackson, d'assumer la tâche qui est historiquement nôtre et de dénoncer ces actes qui ternissent encore une fois notre image de la justice. Ainsi, comme l'exprimait Charles Dickens après avoir visité la prison de Cherry Hill en 1842, il nous faut conclure comme il le faisait alors dans ses American Notes:

"I believe that very few men are capable of estimating the immense amount of torture and agony which this dreadful punishment, prolonged for years, inflicts upon the sufferers; and in guessing at it myself, and from what I have seen written upon their faces, from what to my certain knowledge they feel within, I am only the more convinced that there is a depth of terrible endurance in it which no man has a right to inflict upon his fellow creatures.

I hold this slow and daily tampering with the mysteries of the brain to be immeasurably worse than any torture of the body; and because its ghastly signs and tokens are not so palpable to the eye and sense of touch as scars upon the flesh, because its wounds are not on the surface and it extorts few cries that human ears can hear; therefore I denounce it as a secret punishment which slumbering humanity is not roused to stay.

Ian Bandeen - Sharing Our Wealth

Dear Sir,

It has come to our attention this evening, through the penitent lips of Ian Bandeen, that as bartender at the L.S.A.-sponsored party Thursday night (in the Union Ballroom) he dispensed numerous cases of beer gratis. It was an intoxicating experience to see Bandeenism taken out of its abstract paradigm and employed in the concrete social forum of an L.S.A. party. What was formerly misunderstood to be a radical radical's conservatism has been revealed by its prime exponent, Mr. Ian Bandeen, to be nothing less than a populist and free-pouring expression of the most avant-garde socialist bonhomie. Those unable to fully comprehend the esoteric treatise published earlier this semester by Mr. Bandeen were given a rare opportunity to imbibe (and later wallow) in its heady import. The experiment can only be judged a complete success. The triumph was celebrated by Ian and his confrère Michael Shuster, air-borne of heady spirits, in an exchange which had on-lookers hastening for cover. Many thanks, Ian.

P.D.Q. Wickens
H.J.A. Paterson

Bandeenism suffers from Major Recession

by Jay Kendry

Since Mr. Bandeen has seen fit to publish his own brand of sophistry, I feel a rebuttal is in order. I could be trite and suggest that, "like capitalism itself, Mr. Bandeen will be destroyed by his own internal contradiction", but I would like to go into the shortcomings of his article in greater detail.

One of the major difficulties in criticizing Mr. Bandeen's diatribe is that it is very difficult to pin down just what he meant to say. One senses he has a feeling that our economy is bad and getting worse and that this state of affairs upsets him. Unfortunately his explanations do little to shed light on why he feels this way. I venture to conclude that the source of his misgivings is his belief that our society is not as nice to capitalists as it should be. In other words, some nasty Canadians do not want to give capitalists their fair share of the Canadian economic pie.

Who are these nasty people? Well, it seems there are a lot of them. Union members, social democrats, and minority groups are some of those fingered by Mr. Bandeen.

What are these nasties doing that has set us down the road to ruin? Their main fault is that they are demanding that we allocate the wealth produced by our society differently. Labourers want to allocate more to themselves through higher wages. Minority groups do so by asking for real rather than rhetorical equality of opportunity. Old capitalists do not like to share with new capitalists if they do not look the same. Finally, the government sins by taking some of the wealth and giving it to the poor and by providing services to the public.

Since all these groups (especially the government) have had some measure of success, our system is corrupt, according to Mr. Bandeen. What will be the result of this corruption of capital? Mr. Bandeen appears to think that by depriving capitalists of their "fair" share of the money pie, we have shot ourselves in our collective economic foot. Thus weakened, we have left ourselves open to attack by hordes of Japanese businessmen who are, even as I write, planning their assault on our business bastions to rape our ripe resources.

What can we do to avoid this horrible fate? Mr. Bandeen suggests we give back more money to the capitalists so that they, in turn, can invest it in our equity-starved corporations. Thus strengthened they can wage high-tech battles against the ugly foreigners. This solution is commonly known as Reaganomics. It sounds beguilingly reasonable. Indeed, those who would oppose it must not love their country - after all, it is them or us. It is well-known that conservative capitalists love their country as much as they love capital.

There are two major drawbacks to this simple solution. The first is short-term, the second is long-term. First, as Mr. Bandeen suggests, our economic pie is not growing. In order for one sector of the economy to get a bigger slice, others must do with less. If we give more to capitalists and their capital, others must suffer, namely those lacking political clout: the poor, the young, the non-unionized workers, and members of minority groups. All you welfare bums will have to get by on less. All you sick people will have to pay or suffer. All you workers, trade in your Cadillacs and buy Toyotas (better yet, Chevettes).

Certainly this is a well-known drawback of neo-conservatism. But leaders, like Reagan and Thatcher, have convinced many that it is short-term pain for long-term gain. Once capital is restored to its proper place, growth, as in the 1960's, is bound to occur. Or is it?

It may well be that this policy will have much more devastating long-term effects. If you increase the share of wealth allocated to capital, the big losers will be labour and government. Less labour input means less employment. As the extra capital infused into the economy is used to introduce robotic and automation, the outcome will be an increase in unemployment.

The day may come when production of our manufactured goods will be handled by 5% of our working population just as 150% of our agricultural needs are being produced by just 4% of Canadians. One hundred years ago, a majority of Canadians were employed in the agricultural sector. Those who are displaced by microprocessors will have virtually no hope of gainful employment. When everyone is busily replacing people with technology, who will be hiring? To aggravate their plight, the ability of governments to provide for them will be attenuated. Remember, we are taking from the government to give to capitalists. Those unemployed will not just be auto-workers, they will also be young professionals like you and me trying to break into the job market.

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Daigneault

than to go to the Kingston Penitentiary. There are very few of the latter at Tanguay and therefore no programmes designed for these long-term inmates. On the other hand, if a woman decides to go to Kingston, she will be further from her family and if French-speaking, in a totally English environment.

When entering Tanguay, a prisoner is supposed to be given a copy of the Act and Regulations Respecting Imprisoned Persons. These regulate behaviour in prisons, outline recourses for prisoners, state what the possible punishments are, what medical care is available, and so on. The Act also contains a copy of the Quebec Charter of Rights.

Mme Daigneault said that in fact this document had been blacklisted and was not distributed to prisoners. This, she stated, contributes to a general lack of information among prisoners regarding their legal rights. In addition, because of the very small number of practitioners in the field, there is very little jurisprudence to provide a base for any legal action.

Prisoners at Tanguay are incarcerated according to their security classification, of which there are three: minimum, medium and maximum. Maximum security prisoners are those who are considered likely to make attempts to escape and, should they succeed, to pose a danger of physical violence to others. There are armed guards around the clock in this area, prisoners are allowed out of their cell one hour a day, and are subject to body and cell searches at any time.

Medium security includes prisoners who are likely to plan an escape but who are not considered dangerous. They may move around more easily and have some contact with other inmates. Those prisoners are subject to searches but not regularly.

Minimum security prisoners (there are none at Tanguay) are those considered not likely to escape. They work outside the prison and return there to sleep at night.

A prisoner's security classification is therefore very important and determines what life in prison will be like. Maximum security prisoners, according to Daigneault, have an intolerable existence. They have a high drug consumption: large amounts of valium are prescribed by prison doctors at Tanguay, and there is also a substantial illegal drug trade. Punishment for such an infraction was, in one case, to wash the floors: because the prison had already hired cleaners to do the job, Nicole Daigneault said that it was probable somebody was pocketing the extra money.

Daigneault also noted the high degree of paternalism existing at Tanguay, of the extremely narrow lifestyle (make-up sessions, knitting groups) and of the unbelievably poor medical and psychiatric care that exists.

To demonstrate what she calls the "wilfull blindness" of the government, Daigneault recounted Solicitor-General Robert Kaplan's behaviour during the Archambault riots. She tried to get into the prison during this time, but it was closed to all lawyers from 25 July to August 4. In response to numerous reports regarding the "incredible brutality of the guards", Kaplan said that these allegations were simply not true. The problem is compounded, says Daigneault, by the fact that most judges are unfamiliar with criminals or criminal institutions and that the public does not want to hear about prison conditions.

Daigneault suggests that a prison law course be made compulsory in law schools either separately or as a part of the criminal law course. She says that lawyers must be aware of conditions in prisons and how prisoners are treated. Daigneault is presently giving such a course at l'Université de Québec à Montréal, and says that the credits obtained are transferrable.

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The real problem will not be limited production capacity. The real problem will be maintaining the selfesteem and dignity of a growing unemployable segment of our population. Our liberal democracy espouses equality of opportunity. If many are faced with the reality of no opportunity, the fabric of our society will become strained. Incidents like the recent violence in the Gaspé will become more commonplace. This incident happened at the peak of the present economic upturn. The next recession could produce even more severe results.

I am not suggesting that Mr. Bandeen should not be concerned with the health of the Canadian economy. However, his defence of capitalist ideals recalls the defence of agrarian values by the Luddites during the Industrial Revolution. As we enter a post-industrial era we need more than incomplete answers.

Mr. Bandeen's concern with capital intensive industry is laudable. However, his proposed solutions to the problems of industry and of capital formation show a degree of shortsightedness. Technology is the source of social change. I suggest Mr. Bandeen look past the glitter of high-tech and consider the social change that will come part and parcel with the new technology. That is the real problem.

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new "social contract" or expression of goodwill in the Faculty.

2. More opportunities for informal professor-student conversation should be fostered. We very much support the idea that professors be encouraged to "brown bag it" on at least one specified day per month and join students for lunch in the pit.

3. Similarly, the LSA and the Dean should work together to organize an informal reception once per term between each class year and professors. There is no reason why such an event need necessarily involve any great expense. Coffee and doughnuts for an hour one afternoon would be a breakthrough; support for such events could come, in part, from the fund made available by the LSA to each class.

4. Emphasis should be placed on the fact that the common room is intended to be a place where minds may meet in "common" informal discussion between students and professors. In recognition of its role as a centre for discussion and debate, the Faculty might consider renaming the common room the "Sir Wilfred Laurier Room".

5. Every student should be encouraged to have an individual appointment with each of their professors once per term. However, it should be made a clear condition of appointment for practitioner-lecturers that they are also required to have accessible office hours in the law school. Often professors are required to see the students of practitioners, and this is unfair to students and professors alike.

6. Professors and students should strive to overcome the "upstairs-downstairs" limitations of the physical plant. In addition, during the course of any renovation these barriers should be removed wherever possible.

7. "A full sharing of information", as called for in the Faculty Review, should be encouraged. The recent creation of a question period in Faculty Council is a positive step in this direction.

III. MISSION OF THE FACULTY

The National Programme is an integral and essential element of the Law Faculty and one of the principal goals of the Faculty is to promote and enhance the programme. The idea of such an educational experience inspired the Faculty Review Committee to state at page 5 of its report:

"The National Programme, in teaching simultaneously the two great western legal traditions, is by its very nature comparative, more philosophical, and inherently more academic than any programme based in just one of these traditions. The opportunity to participate, at the professional level, in both legal systems is exciting and exhilerating, inspiring new insights and a greater depth of understanding in each".

We agree with the ideal and sentiment expressed, but we are forced to conclude that to date, the National Programme exists only in the minds of Faculty and students, and not in the classroom.

We concur with the general tone of the Report concerning the mission of the Faculty. However, we believe that several important issues were not adequately dealt with in the Review and would like to offer several proposals that emphasize the teaching aspects of the "missions" of the Faculty.

In reality, the National Programme amounts to two separate, but parallel, sets of courses. This does not resolve the question of what the National Programme can and should be.

It is essential that a far greater emphasis be placed on the comparison of the two traditions. One is hard-pressed to find a student who can, after two years of law school at McGill, articulate the difference between a hypothec and a mortgage, or between many other important concepts in the two traditions. More importantly, how many students have heard these differences being dealt with in a class?

We suggest that a greater number of comparative courses should be placed in the curriculum, and that elements of comparison should be introduced whenever possible in a course. This could be done in three ways:

a) Guest Lecturing. Some professors may not be comfortable teaching a course which offers comparative elements. In such cases, we suggest that efforts be made to find a guest lecturer who could offer such a comparison at least once during the year;

b) Joint Teaching. Much could be gained by having, on a regular scheduled basis during the term, joint sessions between a civil and common law class wherein different approaches to similar problems could be explored;

c) More Comparative Courses. There is a great benefit and stimulus to be gained by offering more courses which focus on the comparison of the two traditions in various areas.

Another serious concern is the lack of French language sections of civilian courses. It is true to say

at a National Law Faculty, the use of Canada's two official languages should be flourishing.

It is somewhat perverse that, at the same time as a knowledge of the French language is necessary to practice in Quebec, and some knowledge is becoming a requirement elsewhere in Canada, French sections are among the first to fall under budget cutbacks. These sections are not luxuries. At McGill we should ensure that all graduates are at least able to comprehend the French language, if they wish to do so. This was seen to be so important by this committee that several members have suggested that a basic French course, emphasizing legal terminology, be offered for credit.

Students recognize, as professors do, that the National Programme should encourage innovation. While it is necessary for a student at McGill to follow more basic courses than would be required at another institution, we nonetheless believe that with a dynamic and flexible approach and a better staff-student ratio* a lessening of the isolation of the two Canadian legal traditions could be attained.

Recommendations

1. The Faculty should take immediate action to increase the comparative law content of the undergraduate degrees. This could be done by a re-evaluation of the existing curriculum and by recruitment of new professors trained in the two traditions.

2. Joint teaching should become an important feature of our Faculty. The appropriate authorities in the university and in the Faculty should re-evaluate the criteria according to which the teaching responsibilities of professors are assessed. In this way, any increase in a professor's joint teaching activities (whether as joint professor of an entire course, as guest lecturer in another course, or as a participant in joint class session) would result in a corresponding decrease of what is expected of him or her in "traditional" lecturing duties. Professors should be encouraged, rather than penalized, for making the National Programme a reality.

3. French language sections should not bear the brunt of cut-backs. If hard choices have to be made, we should ensure that at the very least, in civilian courses with more than one section, one should be offered in French.

4. Substantial instruction in French legal terminology should be made part of an expanded tutorial programme.

*See the section of this report dealing with Faculty resources, below.

CURRICULUM

The Faculty Review Report outlines 3 major issues concerning the undergraduate curriculum. Briefly, these are:

1. The operation of the Board of Student Advisors

"While it is understandable that this arrangement [teaching by upper-year students] is the result of lack of teaching resources, it is academically unsatisfactory."

The report mentions, however, that on the whole students are satisfied with the program. The report also makes a similar comment about the Moot Court Board.

2. The growing importance - particularly in Québec - of administrative law.

The Faculty now offers two courses in administrative law.

3. The increasing bureaucracy of the Faculty reflected by a "rigid insistence on rules."

Unfortunately, the report does not address numerous curriculum issues which affect our legal education - namely, peculiarities of the content of the curriculum and policies which should govern curriculum decisions. The report as a whole, however, does establish a general framework within which these issues can be examined.

During the past 5 years the Curriculum Committee has been hard at work on "cleaning up" the National Programme - a difficult task indeed. Although actual or potential changes to the curriculum have not come about in a vacuum, the committee has not expressly articulated its thoughts on an issue which has been debated and brought to the fore in various reports and articles on legal education - the law school as an academic or a professional institution.

The Arthurs report addresses this issue and concludes that Canadian law schools are professional and that "there is a relatively weak academic presence in our law faculties". It is true that the pressure is great to offer students a training which will prepare them for the work place. It is equally true that more often than not students are resistant to professors who wish to go beyond black letter law. The Arthurs report rightly points out that if law schools are to define their goals as preparing students for practice, logic dictates that they adopt other structures - namely, including a clinical component in their curriculums.

It is probably unrealistic to believe that the "conflict" between these two "philosophies" of legal education will ever be resolved due to the very nature of law as a discipline. The Faculty attempts to integrate the two through its hiring process. We think that the mix is desirable, but equally desirable is that this be done in a systematic, conscious and somewhat controlled fashion.

One way of accomplishing this task (of integration) is to hand out to students, at the start of every course, a comprehensive summary outlining the major substantive and procedural rules of a given topic ("the law") and to utilise class time for more academic discussions - social, political and historical content, perhaps focusing less on the traditional case law method of teaching. This may be more suitable for the upper years with basic legal teaching in first year.

Another possibility is to reinstate seminars in all courses.

Whether one adopts the view that legal education should be professional training or more academic is one issue which could be debated forever. Less debateable is that whatever view one favours, fundamental to both is skill in legal research and legal analysis. On this topic the Arthurs Report states "Otherwise they [students] will never gain access to the formal sources of the law nor understand and evaluate changes in them." Although at McGill we are given an introductory course in legal research and writing in the form of tutorials, this is not sufficient.

More advanced courses in legal research and writing should be offered at the Faculty as a follow-up to the basic first year "tutorial" course. Students involved in the Board of Student Advisors could prove to be an invaluable resource in the development of such courses. To achieve this purpose professors should provide training sessions for these students.

Students should be encouraged to write more. The elimination of all two credit courses is a first step, as it would eliminate the phenomenon of 6 to 7 courses taken in a given term to fulfill requirements (this phenomenon plagues upper year B.C.L. students the most).

The Faculty Review Report suggests that the Law Faculty establish more links with other faculties. There are many ways in which this could be accomplished:

(a) Opening up more courses in the Law Faculty to non-law students. To date this is done in only two courses at the Faculty - Law and Psychiatry and Civil Liberties. Experience has shown that input from other faculties adds further dimension to legal thinking of students and professors. There are many areas of practice in which lawyers must work with professionals in other fields, e.g. juvenile justice. Tensions between the various professionals have been attributed to a lack of understanding of the other's discipline. Some have advocated that since the Bar and the University are primarily responsible for professional formation, they should play a part in educating its members in the practices and philosophies of other professions.

(b) Inviting guest lecturers from other faculties into our classes. This could be done by discussions on selected course topics or through joint-teaching for the entire duration of a course.

(c) Encouraging students to take non-law courses in other faculties.

Although the regulations of the Law Faculty permit this practice, students are far from encouraged to do so because of the numerous restrictions and red-tape.

This committee would like the Faculty to provide a true link with the types of law practiced in the Canadian community by instituting a programme of courses in non-traditional areas (for instance, social law, environmental law, natural resource law).

McGill students are, in general, not very familiar with law firms other than those doing work in corporate-commercial areas. For these reasons there seems to be pressure on them to adhere to a very rigid and traditional course selection.

Université de Montréal offers a number of non-traditional courses in its law faculty. Students who are interested in social action, public law and the like, are exposed to lawyers and law firms doing this type of work. These students seem to be less at a loss in knowing where to apply for articling positions or summer employment than McGill students.

Recommendations

1. We would like to encourage the Faculty to adopt guidelines (a practical policy paper) concerning its views of the legal education process (the education and practical debate).

2. A clinical component to the curriculum should be implemented.

(a) More should be done to actively encourage students to make use of the Legal Aid

Course. More publicity is needed in this respect as the course is often confused with the McGill Legal Aid Clinic. As well, professors should play an active role in supervising and/or advising students taking the course.

(b) The possibility of co-ordinating a one or two-term internship/practicum should be explored. This is done at other Canadian universities (UBC, U. of Victoria, for instance) and has proved to be an invaluable experience for students. Stages do not necessarily have to operate from private law firms. Contact with governmental departments and community groups would serve the function of exposing students to legal work in no-traditional areas of law.

3. The Faculty should offer more courses in:

(a) Legal research skills;

(b) Lawyering skills - advocacy,

(c) Non-traditional areas.

4. More formal links should be established with other faculties at the university.

5. The B.S.A. should not be abolished but there should be more input by professors - either in actual joint-teaching with students or in training sessions for student advisors. There is a need for better planning and support for the BSA. Along the same lines, the Moot Court Board needs greater participation by professors in the process of researching and judging moot problems (more guidance and availability).

6. The Faculty should move in a direction which would tend to eliminate the bureaucracy rather than increase it. The present streaming process does not seem to be increasing administrative efficiency.

THE EXAMINATION PROCESS

Althought not specifically mentioned in the Faculty Review Committee Report, the examination process is a very important part of law school life.

Under Faculty Regulations and Examination Board Guidelines, the Exam Board has general jurisdiction to propose guidelines on all matters relating to examination purposes.

Basically, the Exam Board has two functions:

a) "Vetting", or proof-reading of exams (this is a review of form or grammar, not of substance), and

b) Reviewing of exams after each exam session.

In its present form, the Exam Board has been criticized in its own report of March 1983 as being too large (6 professors, 2 students) and overly redundant in its functions.

The Board's first duty of "vetting" (review of form and grammar) exams is unnecessarily repetitive of the work of the co-examiner, who is a faculty member chosen by each examiner to check the academic substance, form, length, clarity, etc. of the exam. Exam Board guidelines stipulate that the co-examiner "should" have expertise in the field under examination and generally this has been the case. If the co-examiner's work has been conscientious then there appears to be no need for the Exam Board to review on form and grammar.

Secondly, as constituted at present, the Exam Board reviews marks after each exam session. As Faculty Council also must approve marks before release, the Exam Board seems only to duplicate this job.

In our view, the Exam Board should play a protective and buffering role between students and professors in the marks "circus". Although one of the recommendations in the March 1983 Examination Board Report was to abolish the Board altogether, this "sledgehammer" suggestion is too radical and self-defeating. Instead of abolition, the Exam Board should withdraw from its current redundant functions and concentrate on new areas.

The Exam Board should more stringently review and act as a quality controller over examinations. This duty could supplement, not replace, the work of the co-examiner since not every member of the Board will have an expertise in the field. The advantage of having the Board review for academic substance is that it will obtain a general impression of all exams written in the school and thus will be able to encourage some uniformity in levels of difficulty.

The Exam Board might use statistical methods to review marks to determine if any professors are "too easy" or "too hard". A marks profile taken over several years would be a useful device since each instructor is allowed an almost unfettered discretion to grade as he or she pleases. At present, it appears that only "manifest error" in the addition of grades is regulated. Further, it may be with a rather curious pride that some professors note that marks at McGil law school have not met with the same "inflation" as in other schools, but for students (hungry, lusting for jobs) this is by no means a desirous state of affairs.

Instead, the current practice of failing as much as a quarter of any course may be an indication that the professor rather than the student is not doing his job. In addition, one cannot help but question the elitist assumption that McGill's low grades indicate a higher level of teaching quality. The obvious result of low grades can only serve to discourage the student. We also disagree with the opinion held by some faculty members that law school performance correlates directly with the performance of students in their future legal careers.

In addition, the re-read process may be questioned. Of 112 failures in the spring 1983 session, only two received passing grades on re-read. Thus the present process where co-examiners automatically recheck failed exams may be infallible, or conversely, it may be meaningless. First, on re-read, the co-examiner is handed a set of papers on which the grade appears, and may have been commented upon by the examiner. To allow for a more objective view by the co-examiner, it is suggested that the failed exams be forwarded to the co-examiner "free and clean" of any previous comments and marks. Secondly, it appears now that junior faculty members often act as co-examiners for senior tenured faculty. In such a case it may be difficult for the co-examiner to reverse a decision of a senior colleague. To alleviate this problem it is suggested that the co-examiner be given a number of passed examinations, representing a range of grades, also "free and clean" of any comments or grades, with the failed exams to be re-read.

There should be compulsory Christmas examinations in every full-year course in first year. As well, first year students should be exposed to a practice exam in all one-term courses. This would allow first year students an opportunity to practice writing law school exams before being subjected to a barrage of finals. In addition, professors of first year courses should engage in post-exam review sessions. We also applaud and encourage the use of other evaluation methods, such as assignments, essays and seminars.

It is suggested that the Faculty might place less emphasis on the practice of ranking students in order of grades. Ranking only tends to increase the "competitive edge" in a class. This is not necessarily conducive to a positive academic environment.

Although no consensus was reached on this point by the members of this committee, there was a suggestion that the Faculty might consider the extension of the use of the PASS/FAIL system.

Recommendations

1. The Exam Board should not devote time to proofreading exams for grammar and form, but rather should concentrate on ensuring a uniform level and quality of exams in all courses.

2. The Exam Board should carry out statistical and other analysis of course marks over several years in order to isolate trends or tendencies in exam evaluation.

3. The process of re-reading failed exam paper should be revised in order that the co-examiner receives the papers to be re-read "free and clean" of any comments by the examiner, together with a number of passed exam papers representing a range of grades, also "free and clean" of grades and comments.

4. There should be a compulsory Christmas examination in every full-year course in first year, and a practice examination in every one-term course in first year.

5. Teachers of first year courses should carry out a post-exam review of each of the mid-term or Christmas exams.

6. Greater use should be made of a variety of methods of evaluation such as assignments and essays.

VI. APPOINTMENTS, PROMOTIONS AND TENURE

The difficulty of attracting teachers is a problem common to law schools across Canada. It is easy to say that the best way to improve the Faculty is to recruit and keep better teachers and researchers. The problem is that Canada has only a limited senior professoriat. This problem was raised by the Arthurs Report (p. 31). The reasons for this limited pool are two-fold. First, law professors are hired away from teaching to the bench, law firms, other schools and law reform commissions. In other words, because there is a great demand outside the university for legal professionals, it is difficult to retain staff. As a result many faculty members tend to be relatively young.

Second, compared with the U.S., Canada has fewer law schools from which professors can be recruited. The consequence is that law schools tend to recruit new fauclty with little experience in teaching or research. If the professor turns out to be unsatisfactory, his contract is not renewed and the whole process starts anew. This is not meant as an attack on new professors, but rather, a recognition that the limited senior professoriat in Canada results in a reduced

possibility of hiring experienced faculty.

If, as proposed by the Faculty Review report, several new professors are hired in the near future, priority should be given to candidates with several years of teaching experience. In the event that this is not possible, we suggest that new professors hired should be given guidelines on how to communicate with students in the classroom. Further, it would be advisable that new professors not be required to teach first-year courses. In other faculties the senior professors often teach the first year courses so as to provide the student with a good grounding in the basics. New professors should not be given large classes in their first year of teaching as well.

The Staff Appointments Committee is small - only two professors and one student. The student attends policy discussion meetings, having little or no input in the actual selection of professors. In order to provide greater student input into the hiring process, the student sitting on this committee should be given a vote. The Faculty Review report recommended that the Appointments Committee expand its members to allow for more representation on the part of professors and students. Priority in hiring should reflect views of a large cross-section of the Faculty.

In so far as the matter of promotions, renewals and tenure is concerned, the law Faculty Committee makes a recommendation to the Senate Tenure Committee as to whether a professor should be granted tenure and/or promotion*. An important part of this recommendation deals with the professor's teaching ability. In evaluating this ability, the Faculty Committee apparently conducts interviews with students and examines student lecture notes to see if they contain legal themes and concepts rather than just a string of cases. In fact, this practice does not seem to be very widespread. A more formal and regular consultation with students is needed.

The present process of granting promotion and tenure can be made more effective by providing for wider and more formal student input in the area in which we are most competent to express ourselves - teaching ability.

At present the Dean notifies the Secretary of Senate at the beginning of each academic year of the names of all staff members who must be considered for tenure during that academic year. The list of these names could also be given to the L.S.A. each year at this time. The two students who sit on the Staff Appointments Committee and on the Promotions, Renewals and Tenure Committee could then seek out students of those professors who are up for tenure or promotion that year. The two student committee members could interview these students, examine their class notes, and come up with an evaluation of the professor's performance in the classroom. This report would then be presented to the Faculty Promotions, Renewals and Tenure Committee. In this way the student could contribute in a more meaningful way to the committee's work. This would not involve a great amount of work for the two students as there are never a great number of professors up for tenure or promotion in any one year.

*The procedure for staff promotion and tenure is outlined in the Appendix.

Recommendations

1. If, as proposed in the Faculty Review Report, several new professors are hired in the near future, priority might be given to hire candidates with prior teaching experience.

2. In the alternative, new professors should be given guidelines on how to communicate with students in the classroom. It is advisable that new professors not be required to teach first year courses. Futhermore, new professors should not be given large classes in their first year of teaching.

3. In order to provide greater student input into the hiring process, the student sitting on the Faculty Appointments Committee should be given a vote.

4. We endorse the Faculty Review Report recommendation that the Appointments Committee expand its numbers to allow for more widespread representation on the part of faculty and students.

5. The Promotions, Renewals and Tenure Committee should have a more formal and more regular consultation with students in its determination of a recommendation to grant tenure and/or promotion.

6. The two students who sit on the Appointments and Promotions, Renewals and Tenure Committees should present an evaluation report of the professor's performance in the classroom to the Faculty Promotions, Renewals and Tenure Committee. In preparing their report, the students would interview those students who are taking classes with candidates for tenure or promotion. The students could also examine students' class notes.

VII. ADMISSIONS

The recent budgetary cutbacks made in the Faculty have undermined the resources of the admissions office. The office is understaffed and overworked and must perform a huge task. The function of admissions is crucial to the future of the Faculty since it is by those means that a law school ensures itself of an energetic, enthusiastic and varied student body.

Recent efforts have been made through the use of a new brochure and a revitalised alumni network to raise the numbers and quality of the applicant pool. Applications for the 1983/84 year were up by 30% over the previous year. This increase in the size of the applicant pool is important to the overall quality of the student body. With a larger applicant pool, McGill can be more selective in admissions.

McGill considers itself to be a National Law School and so must recruit students from a broad range of backgrounds, experience and interests. One area where McGill should take aggressive action is in the active recruitment of native students. The brief mention in the present brochure, although perhaps well-intentioned, is both inadequate and perhaps misleading in that it implies that native students must proceed to law studies via the Saskatchewan Native Law Centre, rather than being able to enter as any other qualified student would. We were encouraged, on the other hand, by the fact that the levels of women students in recent entering years has increased to 45 and 50%.

In order to improve recruitment and admissions procedures a number of initiatives should be taken. The admissions office requires more staff in order to process and administer application files, and so leave faculty members free to carry out interviews and make file assessments. This is an important part of faculty members' administrative duties as faculty are best able to evaluate the type of student who would most benefit from the study of law at McGill.

The new brochure is a positive initiative towards improving recruitment. The impact of this brochure on the number of applications should be assessed. The proposed development of an alumni network should also be encouraged. Alumni across Canada can be used to hold recruitment sessions and to initiate contact on a personal level with prospective candidates for admission to the Faculty.

Finally, we believe that the remark made by one professor to the effect that the last 10 to 15 candidates admitted each year to the B.C.L. programme are somehow of lower than acceptable standards, should not have been published in the Faculty Review report. This gave undue credence to the unsubstantiated personal opinion of one individual.

Recommendations

1. The level of staffing of the admission office should be increased.

2. The Facuty should undertake an active programme of recruitment of native students.

3. The Faculty should maintain an active recruitment programme through the use of alumni and other means to attract a greater number and a wide variety of applicants of high standards.

FACULTY RESOURCES

Many of the observations made by the Faculty Review Report and by this LSA committee refer to the fact that the Law Faculty is seriously underfunded. Within Canada, only McGill and Ottawa offer both Civil and Common Law programmes. Therefore, McGill requires a higher level of overall funding in order that the National Programme function effectively.

As well, a larger pool of teachers is required to provide for two sets of core courses. Two undergraduate law programmes and specialized graduate law programmes demand a larger basic library collection. In addition, administrative costs in time and money are higher in a dual-programme school.

Student-Faculty Ratio

When McGill funding is compared to that of other Canadian law faculties, it becomes clear that the university has not provided the financial support necessary for the National Programme to function as it was designed to function.

According to the documents prepared by the Faculty and by the Faculty Review Committee, the faculty-student ratio at McGill of 1:22 is the highest in Canada with the exception of the Université de Montréal. The average ratio in Canadian law schools is 1:19.4 (The Arthurs report, p. 31). Given the requirements of a dual programme, it is clear that McGill is seriously understaffed.

The professional shortage has many detrimental effects. The quality of education cannot but suffer when teaching resources are spread too thinly and classes are large. In addition, the recourse to part-time lecturers (although they may be competent teachers) necessarily results in, at best, part-time availability

for consultation with students, and a corresponding increase in the administrative duties, such as membership in committees, required of professors. Our Faculty is hard-pressed with existing resources to respond to the need for seminars, clinic courses, experimental courses, and French-language sections.

Another harmful effect of under-staffing is the deterioration of the morale of professors and the resulting student faculty tension when faculty feel overburdened and students feel shortchanged on faculty availability for consultation.

An increased salary budget should also allow for the better use of graduate students of the Faculty as teaching fellows, thus providing more small group tutorials for undergraduate courses, and at the same time encouraging the development of a programme of training teachers of law.

Library Resources

The library poses two major concerns:

a) the size, scope and quality of the collection;

b) the availability of adequate space for housing the collection for study, faculty library and administration offices.

The size of a library collection can be measured in terms of number of volumes (a major concern of undergraduates) or the number of titles (a priority for faculty and graduates engage in research). The size of the McGill library holdings at approximately 150,000 volumes is adequate for the size of the student body (550 undergraduates, 50 graduates), but is less adequate when one considers that the collection must serve two undergraduate programmes as well as two graduate institutes. The result is a necessary competition between the specialist collections and the basic programme acquisitions.

In general the funding of law libraries in Quebec is far behind the rest of Canada and Quebec law librarians have categorised the situation as critical*. At McGill, the problem is compounded by the fact that the formula established by the university libraries system for the law acquisitions budget has not been reviewed since 1976. One result of the shortage of duplicate copies of the serials is the competition among students for basic materials which produces such anti-social behaviour as hoarding, hiding, and theft, particularly during exam and moot periods.

At present the library is short of space for all purposes. Study seating is available for only 50% of the undergraduate student enrollment. The shelving area is approaching full capacity leaving no room for acquisitions and growing serial collections. There is a high level of noise in study areas due to a shortage of general reading and social space, and the close promixity of photocopy machines to reading areas.

In the short term, solutions may be found by moving out some faculty offices located in the library and by consolidating the faculty library with that located on the second floor of Old Chancellor Day Hall. This plan has the support of some faculty and the members of the library committee (1982-1983), but it seems to have been shelved. In the long term these space problems can only be relieved by providing for more library floor space.

*Canadian Law Faculties, Y.S. McKennirey, 1983, SSHRC, p. 36.

Physical Plant

As was noted above, the physical layout and overcrowding in the Faculty contributes to a poor atmosphere.

At present, more office space is needed for faculty and for student activities. However, the resort to the use of space in the adjoining Stewart Biology building, while perhaps necessary in the short run, will in the long term tend to aggravate the divisions and distance between students and faculty. As in the case of the library, the only solution seems to be to expand facilities for the Faculty. Alternatively, better use might be made of the building which now houses the two graduates institutes.

Recommendations

1. The University should increase its budget allocations to a level which will not only lower the faculty-student ratio to the national average but will in addition allow for the adequate staffing by full-time university teachers of both common and civil law programmes.

2. The Faculty and the University should develop a programme which would allow for the use of graduate teaching fellows in the Faculty in order to provide tutorials for undergraduate courses and to train teachers of law.

3. The University and the Faculty should review the existing "formula" for law library funding in order to ensure that adequate funding exists to support a high quality collection of materials for the common law and civil law programmes as well as the graduate programmes.

4. The University and the

Canada Law Games '84

Next January (26th-28th), the Ottawa University will be hosting the Canada Law Games '84. Each year, the games have expanded - new participants come from as far away as U.B.C. and Dalhousie, and new additions have been made to the categories of competition. This year promises to be the greatest - the long arm of the law is reaching into the locker rooms and pool halls in its aim to get YOU participating in this athletic celebration!

Activities include the traditional women's and men's basketball, squash, curling, hockey and co-rec volleyball and men's indoor soccer. Ottawa has gone all out in adding down-hill skiing (3 skiiers of each sex), darts, billiards and co-rec broomball!

Both the Dean and the L.S.A. have made generous contributions to cover the entrance fee and help defer costs. Fundraising will increase the pool which ultimately will help reduce individual costs of room and transportation. Already Prof. Shandro and Jill Samis' squash match has aided the cause and numerous other events are slated for Janauary, so...come on out and meet a "confrère" from Vancouver! Converse with a "learned colleague" from Queen's! Here is your opportunity to really benefit from the National Programme in this national event!

If you plan on participating, please drop us a note in the "sports committee" box in the LSA Office (tell us which sport(s) you are interested in) or stop us in the halls. Innovative fundraising ideas are encouraged!

The McGill Law Sports Committee
Jill Hugessen, Nick Vlahos, Kathy Fisher

Cont'd from p. 16

Faculty should convene a committee on space use and physical plant with the mandate to consider short-range and particularly long-range solutions to the problems of space and building design, both in the library and in the Faculty as a whole.

5. In the immediate future, library space should be reorganised so as to concentrate all noisy functions such as circulation, reserve, photocopy and microfilm readers on the fourth floor.

6. The University should lift its freeze on budget allocations for the construction of new building space in the Faculty of Law.

EMPLOYMENT AFTER GRADUATION

The Faculty Review Report is silent on the problem faced by all students, especially difficult in times of economic contraction, of finding an articling position and/or suitable opportunity for career advancement.

At present, we merely wish to stress the importance of this concern for students, and to note that an ad hoc committee of L.S.A. Council is currently studying the possibility of instituting a Faculty placement officer.

It may be pointed out at this time, however, that in contrast with McGill some Canadian law faculties employ a year-round staff member who has, for at least part of his or her job description, a placement officer function.

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Professor Scott opined that "the rational and most effective result to achieve all desirable legal purposes is to strike it (4,400 statutes) all down. In my view, that it the only way you can effectively respect all the necessary principles...". There is precedent for this in Commonwealth law, though of a lesser magnitude. In his factum as intervenor in the Bilodeau case, on behalf of the former Positive Action Committee (now Alliance Quebec), Professor Scott details a Pakistani Federal Court case which struck down several years' worth of enactments by the Federal Legislature of that country, due to the Legislature's failure to obtain royal assent for its legislation during that period.

Presently, the Manitoba government is behaving as though this could be the eventual result if Roger Bilodeau resumes his action in the Supreme Court. They are, however, trapped between a federal government which wishes to see provincial compliance with the Canadian Constitution, and an angry provincial populace which seeks to deny a minority a legal right it has held for over a century. Whether Howard Pawley's government decides to represent the will of a majority of Manitobans by reneging on the May agreement and facing the legal consequences; or instead upholds the rights of a minority and the interests of all Manitobans in constitutional government, should make interesting political viewing in the upcoming months.

BILODEAU REVISITED

by Hartland Paterson

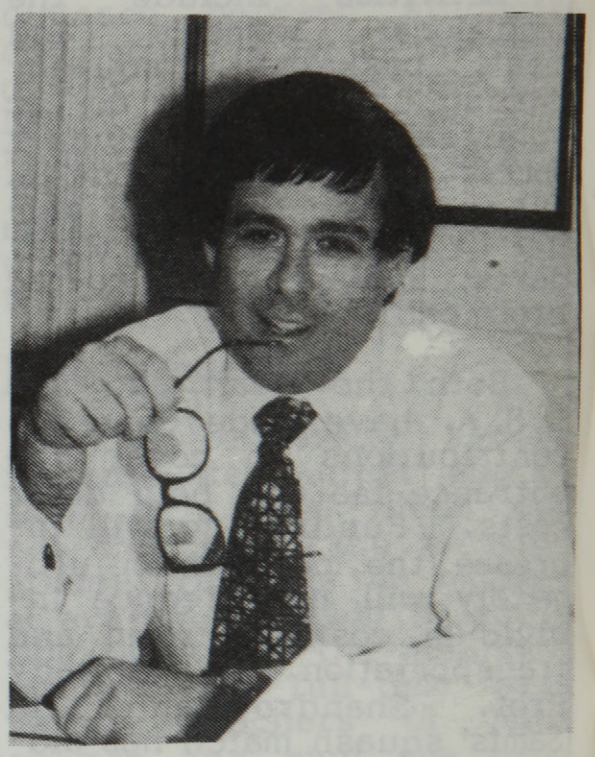
Driving down Winnipeg's Lyndale Drive late in the afternoon of May 29, 1980, Roger Bilodeau blew through a police radar trap at 68 km/h. in a 50 km/h. zone. Handed an English-only speeding ticket, this 28-year-old lead-footed lawyer decided to challenge its constitutional validity.

There were two relevent 1979 Supreme Court decisions to encourage this course of action. One, the case of the A.G. of Manitoba v. Forest, decided that the Manitoba legislature in 1890 violated s.23 of the Manitoba Act of 1870 (part of Canada's Constitution Act, 1982) by passing An Act to Provide that the English Language shall be the Official Language of the Province of Manitoba. S.23 guaranteed the equality of English and French within the legislature and the provincial courts. The other pertinent Supreme Court decision was delivered in A.G. Quebec v. Blaikie, which held that it was an implicit requirement that legislation be enacted in both English and French to be valid in Quebec. This opinion was made in consideration of s.133 of the Constitution Act, 1867 which is very similar in wording to s.23 of the Manitoba Act.

The case moved through the Courts and was very nearly heard this spring by the Supreme Court. All relevant facts have been filed. In May of this year, however, Bilodeau, the Societé Franco-Manitobaine, the federal government, and the provincial government of Premier Howard Pawley devised a secret agreement, wherein Bilodeau agreed not to proceed with his case until Dec. 31 - provided Manitoba had formulated a constitutional amendment which would satisfy the legal concerns of all involved. This agreement has sparked considerable social tension and political controversy within the province of Manitoba. Vandalised offices of the Societé Franco-Manitobaine and a municipal referendum across Manitoba in which 77% of those voting rejected the entrenchment of French-language rights in the constitution, are but harbingers of a potentially more bitter resistance. It is ironic to note that these same French-language rights are of course already entrenched in the Constitution Act, 1871 (s. 53(1) and Schedule of Constitution Act, 1982), and Bilodeau (along with the Societé and the federal government) is simply compelling their legal observance by provincial institutions.

Our law school's own John Shields challenged the validity of the referendum held by the City of Winnipeg on Oct. 26. His case was based on the fact that the provincial Act empowering municipal councils to hold referenda was inequally enacted and therefore unconstitutional. The judge on the Manitoba Queen's Bench rejected this argument, preferring to follow the Manitoba Court of Appeal's decision in Bilodeau's case. This has been, and continues to be, the expedient response of all levels of Manitoba courts, but it implicitly raises two problems. One is that these courts are ignoring relevant Supreme Court decisions (Forest and Blaikie, supra) in favour of Court of Appeal decisions. The second, as Professor Stephen Scott noted, is that there is no such thing as the Manitoba Court of Appeal. The enabling legislation of that Court was unilingually passed and published in English in 1906.

The validity of some 4,400 statutes of the Legislative Assembly of Manitoba is at stake in this case. Bilodeau has recently revealed that he is prepared to help Pawley ease the political and social trauma caused by Manitobans' rejection of the May agreement by extending the Dec. 31 deadline.



Professor Scott contends that the Pawley government has watered down, and will further dilute the original May agreement. Roland Penner, speaking for the Manitoba Cabinet, has apparently confirmed this: "We are continuing to examine the briefs and are looking at alternate ways of adhering to the May 17 agreement while meeting the concerns expressed". The three other parties to the agreement are not likely to accept any substantive deviations from that arrangement; in particular, the federal government prefers a "legal" solution to a "political" one, given that it will have to be entered into the Constitution as an amendment.

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